

## **FINDING OF NO SIGNIFICANT IMPACT**

### **Middle Salt Creek Canyon Access Plan Canyonlands National Park**

The National Park Service will implement a plan for recreational access to Middle Salt Creek Canyon in the Needles District of Canyonlands National Park. Middle Salt Creek Canyon includes the section of Salt Creek Canyon from Peekaboo camp to the side canyon sometimes known as Angel Arch Canyon. Access to Angel Arch Canyon is also covered by this plan.

In 1998 the U.S. District Court for the State of Utah ruled that limited vehicle use of Middle Salt Creek Canyon, under the provisions of 1995 Canyonlands Backcountry Management Plan, caused impairment of park resources and thus violated the NPS Organic Act (16 U.S.C. 1 *et seq.*). The jeep road weaves in and out of the creek, sometimes remaining in the streambed for extended lengths. The court enjoined the NPS from continuing to allow limited vehicle use of the area.

Four-wheel-drive groups appealed the decision, and in 2000 the U.S. Tenth Circuit Court of Appeals reversed and remanded the case to the district court. The remand included instructions to re-examine the administrative record and consider the new NPS Management Policies in regard to the question of “impairment of park resources or values,” the central issue in the case. The NPS proposed a new environmental assessment (EA) process to resolve this question, taking advantage of additional scientific information and applying the new NPS impairment policy, and the district court stayed its proceedings until completion of this EA.

The EA, prepared in accordance with the National Environmental Policy Act (NEPA) and the Council on Environmental Quality regulations implementing NEPA (40 CFR 1500-1508), analyzed the impacts of four alternatives for recreational access to Middle Salt Creek Canyon. The management objective, toward which the EA alternatives are directed, is based on the NPS Organic Act, the act establishing Canyonlands National Park, and the issues on remand to the district court:

To provide recreational access to Middle Salt Creek Canyon without major adverse impacts or impairment of the natural and cultural resources.

The EA was released for public review and comment in July 2002. After consideration of comments from the public, agencies, and organizations, Alternative D has been selected for implementation.

### **PREFERRED ALTERNATIVE: ALTERNATIVE D**

Under the preferred alternative, vehicles will be prohibited in Middle Salt Creek Canyon (i.e., above Peekaboo camp) and Angel Arch canyon year-round. Day hiking and backpack camping, as well as vehicle camping at Peekaboo, will continue under existing regulations and limits as defined in the Canyonlands Backcountry Management Plan (BMP). Pack/saddle stock use will be permitted on the former Salt Creek road, under the limits and provisions in the BMP.

This action is an amendment to the Canyonlands General Management Plan and Backcountry Management Plan. All other provisions of these plans will remain in effect.

## Mitigation

Resource conditions will be closely monitored based on the impact evaluation criteria described under the impact topics in the EA. If unacceptable adverse impacts occur in the Peekaboo to Angel Arch reach of Salt Creek following implementation of this alternative, additional management action will be taken to reduce impacts.

Existing Canyonlands and NPS rules, regulations and policies are intended to mitigate impacts to various resources from backcountry recreation. The Canyonlands BMP includes provisions affecting water quality and quantity, wildlife, human waste, stock, and other impacts applicable to Salt Creek use. The BMP also established limits on the numbers of people and vehicles in backcountry zones and locations, including Salt Creek. The Canyonlands Cultural Site Information Disclosure Policy (Superintendent's Directive 1993 H-1) provides some protection for cultural resources. Regulations in 36 CFR part 2 provide additional legal protection for natural and cultural resources.

Mitigation actions will include clearly delineating the trail to guide visitors and discourage creation of multiple trails.

Mitigation actions for archeological resources will include:

- Baseline condition assessments for all sites considered archeological resources under either the Archaeological Resources Protection Act or the National Historic Preservation Act
- For each site, development of a monitoring program and inspection schedule, to periodically reassess site conditions and evidence of disturbance or deterioration.

If pedestrians or erosional processes are found to be displacing archeological deposits, additional mitigation actions may include:

- relocating and clearly designating pedestrian trails,
- removing social trails,
- constructing boardwalks over archeological deposits,
- encapsulation of archeological deposits by covering impacted areas with fill material, or
- a combination of the above.

The NPS has designated protected activity centers (PACs) around all known territories of the threatened Mexican spotted owl. Owl territories identified during research in the mid-1990's are being re-inventoried, and in 2002 a comprehensive re-survey of the entire park was initiated to determine the current status of the Mexican spotted owl population.

## **OTHER ALTERNATIVES CONSIDERED**

Three alternatives for vehicle access were also analyzed. Each of these alternatives would allow vehicle travel on the Middle Salt Creek Canyon road under the permit system and daily vehicle limits of the 1995 Canyonlands/Orange Cliffs Backcountry Management Plan (BMP). The road would be classified as a Class IV primitive park road and would receive occasional maintenance, only to the level required to keep it passable to high-clearance four-wheel-drive vehicles without use of winches. It would occasionally be impassable as a result of weather and/or streamflow. As required by federal regulations, only state-licensed "street-legal" vehicles would be permitted; vehicle travel off-road and all-terrain vehicles (ATVs) would be prohibited.

- Alternative A (no action) would allow motor vehicle access on the current alignment of the road year-round.

- Alternative B would allow vehicle access on the current alignment of the road each year from October 1 until ice makes the creek impassable, or January 31 of the following year at the latest. Vehicles would be prohibited the remainder of the year.
- Alternative C would realign sections of the road to avoid the streambed and riparian area where feasible, and would allow year-round vehicle access.

## **ENVIRONMENTALLY PREFERRED ALTERNATIVE**

Alternative D is the environmentally preferred alternative. This is defined by the Council on Environmental Quality (CEQ) as:

the alternative that will promote the national environmental policy as expressed in NEPA's Section 101. Ordinarily, this means the alternative that causes the least damage to the biological and physical environment; it also means the alternative which best protects, preserves, and enhances historic, cultural, and natural resources (46 Federal Register 55:18026-18038, March 23, 1981).

Section 101(a) of NEPA recognizes the importance of environmental quality to the overall welfare of man, and declares a continuing policy to promote conditions under which man and nature can exist in productive harmony. Section 101(b) establishes a continuing responsibility for the federal government to improve and coordinate federal plans, functions, programs, and resources to the end that the Nation may:

1. fulfill the responsibilities of each generation as trustee of the environment for succeeding generations;
2. assure for all generations safe, healthful, productive, and esthetically and culturally pleasing surroundings;
3. attain the widest range of beneficial uses of the environment without degradation, risk of health or safety, or other undesirable and unintended consequences;
4. preserve important historic, cultural and natural aspects of our national heritage and maintain, wherever possible, an environment that supports diversity and variety of individual choice;
5. achieve a balance between population and resource use that will permit high standards of living and a wide sharing of life's amenities; and
6. enhance the quality of renewable resources and approach the maximum attainable recycling of depletable resources.

According to NPS policy (Director's Order 12, 2001), the environmentally preferred alternative is the alternative that will promote the national environmental policy expressed in NEPA Section 101(b), which includes alternatives that accomplish the goals from this section (listed above).

Alternatives A and C, which would permit year-round vehicle access on the current road or a partly relocated road, as well as hiking and stock access, would allow the widest range of uses and variety of individual choice, but would also cause the highest level of environmental degradation, thus failing to accomplish goals 1 through 6. These alternatives would provide the least protection to natural and cultural resources, and cause the most damage to the biological and physical environment. Alternative B, which would permit vehicle access for part of the year on the current road, as well as hiking and stock access, would be intermediate between alternatives A and C and alternative D in the range of uses. The severity of some categories of environmental degradation would be somewhat less from this alternative than from alternatives A and C, but other categories of damage would be similar. All three of these alternatives would be inconsistent with the NPS Organic Act, by causing impairment of park resources or values.

Alternative D, which allows hiking and stock access but prohibits vehicle access, will provide the most protection to cultural and natural resources, and will cause the least damage to the biological and physical environment, by removing the direct impact caused by vehicle use, and by reducing the overall disturbance caused by presence of vehicles and the potentially higher levels of human use facilitated by vehicle access. Alternative D will have either a positive or neutral effect on goals 1 through 6 of NEPA section 101(b), by meeting NPS trustee responsibilities to assure future generations of opportunities for beneficial uses of the environment, while preserving resources and balancing use. This alternative will not be inconsistent with any other environmental laws or policies. Because of the environmental impacts of the other alternatives, alternative D is the only alternative that meets the management objective for this plan.

## **WHY THE PREFERRED ALTERNATIVE WILL NOT HAVE A SIGNIFICANT EFFECT ON THE HUMAN ENVIRONMENT**

The following criteria were considered in determining whether or not the proposed action would have significant impacts, and thereby require preparation of an Environmental Impact Statement (EIS):

### **1. Impacts that may be both beneficial and adverse:**

The preferred alternative will have beneficial effects on special status species (threatened, endangered, proposed or candidate species; species of concern; and designated critical habitat); wildlife, natural soundscapes, the riparian/wetland ecosystem, and wilderness. The preferred alternative will have both beneficial and adverse effects on recreational experience, with adverse impacts on recreational accessibility, and generally beneficial effects for the hiking experience. In nearly all cases, the impact intensity levels characterized in the EA are negligible to moderate. In certain instances, higher levels of impact have been predicted for portions or subcategories of impact topics, but the overall impacts of the preferred alternative on those impact topics is determined to be at or below the “moderate” level.

The preferred alternative will have negligible impacts on archeological resources, the economic environment, prime or unique farmlands, environmental justice, air quality, the upland ecosystem, historic structures, museum collections, cultural landscapes, ethnographic resources, or values which qualify an eligible stream segment for the National Wild and Scenic Rivers System.

### **2. The degree to which public health and safety are affected.**

The effect of the preferred alternative (as well as the other alternatives analyzed) on public health and safety will be minor. The danger of vehicles breaking down or becoming trapped in quicksand, with passengers unprepared or incapable of hiking out, will be eliminated. Vehicle transport will not be available for medical emergencies, but this is no different from elsewhere in the Canyonlands backcountry, where medical emergencies are infrequent. The use of helicopters will be available if necessary to transport victims of medical emergencies. For visitors travelling to Angel Arch, day-hiking may present more potential for heat or dehydration-related emergencies than vehicle use (which would be eliminated), but the availability of water and shade makes this less of a concern than in drier parts of the park.

### **3. Any unique characteristics of the area, such as proximity to historic or cultural resources, park lands, prime farmlands, wetlands, wild and scenic rivers, or ecologically critical areas.**

Salt Creek supports one of the most extensive riparian/wetland ecosystems in the park, an ecologically critical area. The creek is the heart of the Salt Creek National Register Archeological district, the area

with the highest recorded density of archeological sites in the park. Effects from the preferred alternative will be negligible to archeological resources, and beneficial to the riparian ecosystem.

**4. The degree to which the effects on the quality of the human environment are likely to be highly controversial.**

Controversy exists when substantial questions are raised as to whether a project may cause significant degradation of some human environmental factor. Controversy refers not to the existence of public opposition, but to a substantial dispute as to the size, nature, or effect of the federal action (Northwest Environmental Defense Center v. Bonneville Power Administration, 117 F.3d 1520, 1539, U.S. Court of Appeals, Ninth Circuit, 1997, quoting LaFlamme v. FERC, 852 F.2d 389, 397, U.S. Court of Appeals, Ninth Circuit, 1988).

No substantial questions were raised about the size or nature of effects of the preferred alternative during scoping or during the public review period for the EA. Claims about increased impacts from hiking use under the preferred alternative have not been substantiated by the actual results that have occurred while this alternative was in effect. Comments on the EA expressed both support and opposition for the preferred alternative, though most (over 90 percent) of the comments favored the preferred alternative. Opposition to the preferred alternative was primarily related to the unavailability of motor vehicle access to Middle Salt Creek and Angel Arch, which was analyzed in the EA.

**5. The degree to which the potential impacts are highly uncertain or involve unique or unknown risks.**

No highly uncertain impacts or unique or unknown risks were identified from the preferred alternative.

**6. Whether the action may establish a precedent for future actions with significant effects, or represents a decision in principle about a future consideration.**

The preferred alternative establishes no precedent for future actions with significant effects, and does not represent a decision in principle about a future consideration.

**7. Whether the action is related to other actions that may have individual insignificant impacts but cumulatively significant effects. Significance cannot be avoided by terming an action temporary or breaking it down into small component parts.**

Cumulative impacts, resulting from the preferred alternative combined with other past, present or foreseeable future actions, were analyzed in the EA. This combination of effects was not cumulatively significant.

**8. The degree to which the action may adversely affect historic properties in or eligible for listing in the National Register of Historic Places, or other significant scientific, archeological, or cultural resources.**

Salt Creek winds through the Salt Creek Archeological District, listed on the National Register of Historic Places. Several previously uninventoried archeological sites eligible for the National Register were identified and analyzed in the EA. The preferred alternative will have negligible impact on historic properties. Compliance with §106 of the National Historic Preservation Act was completed with a determination of “no historic properties affected”. A memo of concurrence by the Utah State Historic Preservation Office was received on August 9, 2002.

**9. The degree to which an action may adversely affect an endangered or threatened species or its critical habitat.**

No adverse effects were identified for any endangered, threatened or sensitive species or designated critical habitat. The U.S. Fish and Wildlife Service concurred with this finding on July 29, 2002.

**10. Whether the action threatens a violation of federal, state, or local law or requirements imposed for the protection of the environment.**

The proposed action does not violate any federal, state, or local law or requirements imposed for the protection of the environment.

**IMPAIRMENT**

In addition to reviewing the list of significance criteria, the National Park Service has determined that implementation of the proposal will not constitute an impairment to the resources of Canyonlands National Park. This conclusion is based on a thorough analysis of the environmental impacts described in the EA, the opportunity for public comments, relevant scientific studies and data, and the professional judgement of the decision maker, guided by the direction provided in *NPS Management Policies* (December, 2000). Although the preferred alternative has some negative impacts, in all cases these adverse impacts are the result of actions taken to preserve and restore other park resources and values. The severity, duration and timing of impacts associated with this alternative, and their direct, indirect and cumulative effects, do not constitute impairment of park resources and values, and will not violate the NPS Organic Act.

Impairment was also analyzed for the three other alternatives considered in the EA. Each of these alternatives would have unacceptable adverse impacts on the Salt Creek riparian/wetland ecosystem. Salt Creek has the most extensive surface water and riparian vegetation in Canyonlands National Park, other than the Green and Colorado Rivers. Surface water and riparian habitat are among the rarest habitat types in the arid Canyonlands environment, and are particularly important to wildlife. Salt Creek supports the park's richest assemblage of birds and other vertebrate wildlife outside the river corridors. For these reasons, the Salt Creek riparian/wetland ecosystem is a resource whose conservation is key to the natural integrity of the park. Consequently, the adverse impacts on this resource from these three alternatives constitute impairment of the park's resources and values.

**PUBLIC INVOLVEMENT**

Scoping announcements were distributed to local and regional newspapers, interested tribes, and a mailing list of over 2000 individuals, and posted on the park web site and at park visitor centers in February 2001. The park held public meetings at six regional locations (Monticello, Blanding, Moab, and Salt Lake City, Utah; Durango and Denver, Colorado) in March and April 2001. The park received a total of 2555 scoping responses by letter, e-mail, or submitted at public meetings.

The EA was made available for public review and comment during a 45-day period ending August 12, 2002. Notices of availability were sent to local and regional newspapers, interested tribes, and a mailing list of over 2000 individuals, and posted at park visitor centers. The EA was posted on the Canyonlands National Park web site, and copies were sent to a number of state and federal agencies.

Approximately 7300 comment letters were received on the EA. Comments came from five government agencies, 17 organizations, and one tribe, with the remainder from individuals. Over 90 percent of the comments favored the preferred alternative. Responses to the more substantive comments are addressed

in an attachment to this document. Comments resulted in one factual correction to the EA, noted under "errata."

## CONCLUSION

The preferred alternative does not constitute an action that normally requires preparation of an EIS. The preferred alternative will not have a significant effect on the human environment. Negative environmental impacts that could occur are minor or moderate in intensity. There are no significant impacts on public health, public safety, threatened or endangered species, sites or districts listed in or eligible for listing in the National Register of Historic Places, or on other unique characteristics of the region. No highly uncertain or controversial impacts, unique or unknown risks, significant cumulative effects, or elements of precedence were identified. Implementation of the action will not violate any federal, state, or local environmental protection law.

Based on the foregoing, it has been determined that an EIS is not required for this project and thus will not be prepared.

Approved: /s/ Karen Wade      09/26/2002  
Intermountain Regional Director      Date

## ERRATA TO EA

Page 77. The length of a round trip hike or horseback ride from Peekaboo to a point from which Angel Arch can be seen is approximately 18 miles, not 16 miles. (This is measured with a Global Positioning System on the ground from Peekaboo to the mouth of Angel Arch Canyon, and may be different than figures on various published maps.)

Page 96. In the first paragraph under Water Quality, an appendix reference was left blank. This should read “appendix 1.”

### Responses to Public Comments

Public comments covered a wide variety of topics, many of which were either beyond the scope of the EA, or had already been thoroughly addressed. No major substantive issues not covered adequately in the EA were identified. The following comments characterize the general categories of more substantive issues and concerns raised during the public comment period. The comments resulted in no change to the text of the environmental assessment:

**1. Comment:** The impacts of vehicles cannot be monitored or analyzed when there is no vehicle traffic on the road.

**Response:** The EA compared data from sections of Salt Creek with and without vehicle traffic. Observations of vehicle impacts included:

- air photos from 1995, when vehicles still traveled above Peekaboo
- ground photos, vegetation transects, and stream channel cross-sections from 1998 to 2001. The first 1998 monitoring on the Peekaboo to Angel Arch canyon was conducted shortly after vehicle travel ceased in that section, but when the effects on vegetation and geomorphic characteristics were still evident. The road/creek section below Peekaboo was still receiving vehicle use throughout the period monitoring was conducted (1998-2001).
- water quality sampling from 1995 to 2001 at the Peekaboo sampling site, and from 1995 through May 1998 at the Crescent Arch site
- functional condition assessment in 2001 on the section below Peekaboo, which is still open to vehicles

This information was compared to information from sections without vehicle traffic:

- ground photos, vegetation transects, and stream channel cross-sections from 1998 to 2001 on the section from Peekaboo to Angel Arch canyon (closed to vehicles after June 1998), and above Angel Arch canyon (closed to vehicles since the 1970s)
- water quality sampling from 1995 to 2001 at the Bates Wilson sampling site, and from 1995 through May 1998 at the Crescent Arch site
- functional condition assessments in 2001 on the sections from Peekaboo to Angel Arch canyon and above Angel Arch canyon

**2. Comment:** Impacts from hiking use under the preferred alternative were not analyzed: new trails, associated cryptobiotic crust impacts, wildlife reactions to hikers, etc.

**Response:** Most if not all of the trails now present in Salt Creek Canyon were there before vehicles were prohibited in 1998. Informal “social” trails do not appear to have increased during the period vehicles have been prohibited. Trails around wet areas were used by drivers scouting the pools before driving through them as well as hikers. Some trails may vary somewhat as stream location or water level



changes. Disturbance effects of hikers on wildlife are discussed in various places in the EA, including pages 57, 58, 61, 64, 65, and 69.

**3. Comment:** Only permanent impacts constitute impairment, and vehicle use doesn't cause impairment because vegetation returned and the riparian area improved after vehicle traffic ceased in 1998.

**Response:** The U.S. Court of Appeals for the Tenth Circuit, in *SUWA v. NPS*, noted that “‘significant, permanent impairment’ may not be coterminous with what is prohibited by the [NPS Organic] Act because other negative impacts [e.g., less than permanent] may also be prohibited.”

**4. Comment:** The EA fails to evaluate riparian damage from the spread of tamarisk resulting from the difficulty of control without vehicle access.

**Response:** Tamarisk is a non-native tree species that is known to have adverse impacts on native ecosystems, especially in areas where natural water sources are scarce. Because of this, attempts are being made to control tamarisk at selected locations in Canyonlands National Park. Easy access to tamarisk stands is not a major factor in choosing areas for treatment. Many tamarisk stands treated in recent years have been relatively remote, and not directly accessible by road. For example, tamarisk has been completely removed from Lost Canyon, a roadless area adjacent to Salt Creek Canyon. Future control actions will target the tamarisk stands in Salt Creek Canyon.

**5. Comment:** Alternative D violates the Americans with Disabilities Act.

**Response:** The federal government is under the authority of the Architectural Barriers Act of 1968 (P.L. 90-480) and the Rehabilitation Act of 1973 (P.L. 93-112). The Americans with Disabilities Act (ADA) extended the coverage of these two acts to state and local governments and the private sector. The Interior Department also uses the ADA Accessibility Guidelines in its construction projects. The primary focus of these laws and guidelines is architectural accessibility (buildings and facilities).

The NPS accessibility goal (Director's Order 42) is to ensure the highest reasonable level of accessibility, with the accessibility level largely determined by the nature of the area and program, and consistent with the obligation to conserve park resources and preserve the quality of the park experience. The NPS also follows “universal design” principles. In the outdoor setting, universal design means not adding barriers when developing an area that is inherently full of barriers, and not creating developments that compromise the integrity of the environment in order to make that environment accessible. NPS Management Policies for park facilities direct that undeveloped areas will not normally be modified, nor will special facilities be provided, for the sole purpose of providing access to all segments of the population.

The Salt Creek Canyon Road below Peekaboo will remain open to motor vehicles. Horseback access up Salt Creek Canyon would provide alternative canyon access opportunities for some individuals unable to hike the portion of the canyon closed to motor vehicles. Viewing Angel Arch has not been possible from the end of the jeep road; an uphill hike from the end of the road is necessary to reach a point where the arch can be seen. None of the Salt Creek alternatives would meet the ADA Accessibility Guidelines, if they applied in this context, because of various characteristics of the backcountry setting and the primitive trail leading from the end of the road to Angel Arch. The major trail alterations required to meet accessibility guidelines would be inappropriate for the backcountry setting. Opportunities to view arches of similar size from in or near a vehicle are available elsewhere in the region. Photos and other information about Angel Arch are available in the Needles visitor center, and in various publications and interpretive media.

**6. Comment:** The Salt Creek road is a highway right-of-way under Revised Statute 2477, established before this law was repealed in 1976, thus the NPS does not have the authority to prohibit vehicle traffic.

**Response:** While a preliminary assessment of the information available to support a county or state claim for an RS2477 right-of-way was undertaken concurrently and attached as an appendix, this issue is outside the scope of the EA. The EA was prepared to resolve the issue on remand to the U.S. district court, which is whether vehicle traffic on the section of the road above Peekaboo violates the NPS Organic Act. In its stay of the case, the court recognized that the RS-2477 right-of-way question is a separate issue which will be resolved separately.

**7. Comment:** The preferred alternative should allow vehicles, but only NPS- or concessioner-guided tours, with a reduced number of vehicles per day.

**Response:** As discussed on page 94 of the EA, most of the impact to vegetation and soil comes from the initial vehicle use. This was demonstrated by an unauthorized vehicle trip on Salt Creek in May 2001, when damage to vegetation could be seen after only four vehicle passes. Vegetation damage from even a low level of vehicle use, even from conscientious, experienced drivers, would keep vegetation out of the vehicle tracks and perpetuate the vulnerability of the riparian area to degradation from commonplace flood events.

**8. Comment:** The preferred alternative should allow mountain bikes.

**Response:** Salt Creek generally has little interest for mountain bikers because of the long sandy sections. The road section below Peekaboo, which is open to mountain bikes, receives virtually no mountain bike use.

**9. Comment:** The preferred alternative should prohibit stock as well as vehicles.

**Response:** The existing Backcountry Management Plan has a number of provisions for stock use which would mitigate potential impacts. These include: per-day limits, no cross-country travel, camping only at specified backcountry campsites, pelletized feed requirements before and during the trip, no consumption of park vegetation, removal of manure and feed from the campsite, and staking of animals away from water sources and vegetation.

**10. Comment:** The preferred alternative should permit concessioner-guided stock trips.

**Response:** The existing Backcountry Management Plan notes that if this service becomes necessary in the future, it may be resumed. This will be considered in the next update of the Canyonlands commercial services plan.

**11. Comment:** The preferred alternative should prohibit vehicles in Salt Creek beginning at the mouth of Horse Canyon (the Horse Canyon junction is about a mile downstream from Peekaboo).

**Response:** This is beyond the scope of the EA, which is limited to the canyon section in which vehicle travel was previously enjoined by court order.